

AMENDED IN ASSEMBLY JULY 16, 2003

AMENDED IN ASSEMBLY JUNE 26, 2003

AMENDED IN SENATE JUNE 4, 2003

AMENDED IN SENATE MAY 20, 2003

SENATE BILL

No. 545

Introduced by Senator Speier
(Coauthor: Assembly Member Cohn)

February 20, 2003

An act to amend Section 4052 of, *and to add Section 682 to*, the Business and Professions Code, relating to pharmacists.

LEGISLATIVE COUNSEL'S DIGEST

SB 545, as amended, Speier. Emergency contraception drug therapy.

Existing law, the Pharmacy Law, provides for the licensing and regulation of the practice of pharmacy under the jurisdiction of the California State Board of Pharmacy. Existing law requires a pharmacist to provide consultation when furnishing drugs, with certain exceptions, and the board has set forth specific requirements applicable to the provision of consultation and the maintenance of patient medication records. Existing law authorizes a pharmacist, in addition to other functions, to initiate emergency contraception drug therapy if the pharmacist has completed a training program on emergency contraception and certain other conditions are met.

This bill would ~~remove this~~ *instead authorize the pharmacist to furnish emergency contraception drug therapy subject to those conditions and would revise the training requirement.* The bill would

~~also state that the provisions authorizing the initiation of emergency contraception drug therapy do not impose a duty on a pharmacist to provide consultation different from or to maintain patient medication records that differ from that which is generally required by the board's regulations. The bill would, however, require a pharmacist to ask questions necessary to determine a patient's eligibility for the therapy prohibit a pharmacist from requiring a patient to provide individually identifiable medical information, except as specified. The bill would also prohibit a pharmacist, or his or her employer or agent, from charging a separate consultation fee for the initiation of emergency contraception drug therapy, but would authorize an administrative fee not to exceed \$10 above the retail cost of the drug.~~

~~Existing law provides for the Medi-Cal program, administered by the State Department of Health Services, under which qualified low-income persons are provided with health care services, including prescription benefits. Under existing law, the department pays participating pharmacists a discounted price for drugs on the Medi-Cal drug formulary.~~

~~This bill would authorize a pharmacist initiating emergency contraception drug therapy to charge a dispensing fee of up to \$10.~~

~~Existing law sets forth certain requirements and prohibitions for health care providers.~~

~~This bill would prohibit an individual issuing a prescription or order for emergency contraception drug therapy through contact with a patient over the phone or through electronic means from charging an administrative fee of more than \$10.~~

~~Existing law makes it a misdemeanor to knowingly violate the Pharmacy Law. All other violations of that law are infractions unless otherwise indicated.~~

~~Because this bill would create new prohibitions on pharmacists, the violation of which would be a crime, the bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.~~



The people of the State of California do enact as follows:

SECTION 1. ~~(a)~~—It is the intent of the Legislature to ensure equality of access to pharmaceuticals for the women of California. In ensuring that access, the Legislature intends to eliminate ~~practices barriers~~ relating to *women obtaining* emergency contraception.

~~(b) The Legislature hereby finds and declares the following:~~

~~(1) Pharmacists receive appropriate training, within their pharmacy education and continuing medical education, to enable them to knowledgeably and competently dispense prescription medications pursuant to protocol agreements, including emergency contraception.~~

~~(2) Emergency contraception contains the same medications found in oral birth control pills, which pharmacists have been dispensing for decades.~~

~~(3) It is unnecessary to require pharmacists to have additional training beyond that which they already receive through extensive pharmacy education and continuing pharmacy education training.~~

SEC. 2. *Section 682 is added to the Business and Professions Code, to read:*

682. *An individual authorized to prescribe emergency contraception who issues a prescription or order for emergency contraception drug therapy as a result of a patient contact by telephone or electronic means may not charge an administrative fee or fees totaling more than ten dollars (\$10) for emergency contraception drug therapy services.*

SEC. 3. Section 4052 of the Business and Professions Code is amended to read:

4052. (a) Notwithstanding any other provision of law, a pharmacist may:

(1) Furnish a reasonable quantity of compounded medication to a prescriber for office use by the prescriber.

(2) Transmit a valid prescription to another pharmacist.

(3) Administer, orally or topically, drugs and biologicals pursuant to a prescriber's order.

(4) Perform the following procedures or functions in a licensed health care facility in accordance with policies, procedures, or protocols developed by health professionals, including physicians,

1 pharmacists, and registered nurses, with the concurrence of the
2 facility administrator:

3 (A) Ordering or performing routine drug therapy-related
4 patient assessment procedures including temperature, pulse, and
5 respiration.

6 (B) Ordering drug therapy-related laboratory tests.

7 (C) Administering drugs and biologicals by injection pursuant
8 to a prescriber's order (the administration of immunizations under
9 the supervision of a prescriber may also be performed outside of
10 a licensed health care facility).

11 (D) Initiating or adjusting the drug regimen of a patient
12 pursuant to an order or authorization made by the patient's
13 prescriber and in accordance with the policies, procedures, or
14 protocols of the licensed health care facility.

15 (5) (A) Perform the following procedures or functions as part
16 of the care provided by a health care facility, a licensed home
17 health agency, a licensed clinic in which there is a physician
18 oversight, a provider who contracts with a licensed health care
19 service plan with regard to the care or services provided to the
20 enrollees of that health care service plan, or a physician, in
21 accordance, as applicable, with policies, procedures, or protocols
22 of that facility, the home health agency, the licensed clinic, the
23 health care service plan, or that physician, in accordance with
24 subparagraph (C):

25 (i) Ordering or performing routine drug therapy-related patient
26 assessment procedures including temperature, pulse, and
27 respiration.

28 (ii) Ordering drug therapy-related laboratory tests.

29 (iii) Administering drugs and biologicals by injection pursuant
30 to a prescriber's order (the administration of immunizations under
31 the supervision of a prescriber may also be performed outside of
32 a licensed health care facility).

33 (iv) Initiating or adjusting the drug regimen of a patient
34 pursuant to a specific written order or authorization made by the
35 patient's prescriber for the individual patient, and in accordance
36 with the policies, procedures, or protocols of the health care
37 facility, home health agency, licensed clinic, health care service
38 plan, or physician. Adjusting the drug regimen does not include
39 substituting or selecting a different drug, except as authorized by
40 the protocol. The pharmacist shall provide written notification to



1 the patient's prescriber, or enter the appropriate information in an
2 electronic patient record system shared by the prescriber, of any
3 drug regimen initiated pursuant to this clause within 24 hours.

4 (B) A patient's prescriber may prohibit, by written instruction,
5 any adjustment or change in the patient's drug regimen by the
6 pharmacist.

7 (C) The policies, procedures, or protocols referred to in this
8 paragraph shall be developed by health care professionals,
9 including physicians, pharmacists, and registered nurses, and, at
10 a minimum, meet all of the following requirements:

11 (i) Require that the pharmacist function as part of a
12 multidisciplinary group that includes physicians and direct care
13 registered nurses. The multidisciplinary group shall determine the
14 appropriate participation of the pharmacist and the direct care
15 registered nurse.

16 (ii) Require that the medical records of the patient be available
17 to both the patient's prescriber and the pharmacist.

18 (iii) Require that the procedures to be performed by the
19 pharmacist relate to a condition for which the patient has first been
20 seen by a physician.

21 (iv) Except for procedures or functions provided by a health
22 care facility, a licensed clinic in which there is physician oversight,
23 or a provider who contracts with a licensed health care plan with
24 regard to the care or services provided to the enrollees of that
25 health care service plan, require the procedures to be performed in
26 accordance with a written, patient-specific protocol approved by
27 the treating or supervising physician. Any change, adjustment, or
28 modification of an approved preexisting treatment or drug therapy
29 shall be provided in writing to the treating or supervising physician
30 within 24 hours.

31 (6) Manufacture, measure, fit to the patient, or sell and repair
32 dangerous devices or furnish instructions to the patient or the
33 patient's representative concerning the use of those devices.

34 (7) Provide consultation to patients and professional
35 information, including clinical or pharmacological information,
36 advice, or consultation to other health care professionals.

37 (8) ~~Initiate~~ *Furnish* emergency contraception drug therapy in
38 accordance with standardized procedures or protocols developed
39 by the pharmacist and an authorized prescriber who is acting
40 within his or her scope of practice. ~~A pharmacist may not charge~~

~~1 a separate consultation fee to a patient for emergency
2 contraception drug therapy that is initiated pursuant to this section;
3 but may charge a dispensing fee not exceeding ten dollars (\$10).~~

~~4 This paragraph does not impose a duty on a pharmacist to do any
5 of the following:~~

~~6 (A) Provide a consultation different from that required
7 pursuant to Section 1707.2 of Title 16 of the California Code of
8 Regulations, except that a pharmacist shall ask questions
9 necessary to determine patient eligibility for the initiation of
10 emergency contraception drug therapy.~~

~~11 (B) Maintain patient medication records that differ from the
12 requirements specified in Section 1707.1 of Title 16 of the
13 California Code of Regulations., subject to the following
14 requirements:~~

~~15 (A) Prior to performing any procedure authorized under this
16 paragraph, a pharmacist shall have completed a training program
17 on emergency contraception that consists of at least one hour of
18 approved continuing education on emergency contraception drug
19 therapy.~~

~~20 (B) A pharmacist, pharmacist's employer, or pharmacist's
21 agent may not charge a separate consultation fee to a patient for
22 emergency contraception drug therapy services that is initiated
23 pursuant to this section, but may charge an administrative fee not
24 to exceed ten dollars (\$10) above the retail cost of the drug.~~

~~25 (C) A pharmacist may not require a patient to provide
26 individually identifiable medical information that is not specified
27 in Section 1707.1 of Title 16 of the California Code of Regulations
28 before initiating emergency contraception drug therapy pursuant
29 to this paragraph.~~

~~30 (b) (1) Prior to performing any procedure authorized by
31 paragraph (4) of subdivision (a), a pharmacist shall have received
32 appropriate training as prescribed in the policies and procedures
33 of the licensed health care facility.~~

~~34 (2) Prior to performing any procedure authorized by paragraph
35 (5) of subdivision (a), a pharmacist shall have either (A)
36 successfully completed clinical residency training or (B)
37 demonstrated clinical experience in direct patient care delivery.~~

~~38 (3) For each emergency contraception drug therapy initiated
39 pursuant to paragraph (8) of subdivision (a), the pharmacist shall
40 provide the recipient of the emergency contraception drugs with~~

1 a standardized factsheet that includes, but is not limited to, the
2 indications for use of the drug, the appropriate method for using
3 the drug, the need for medical followup, and other appropriate
4 information. The board shall develop this form in consultation
5 with the State Department of Health Services, the American
6 College of Obstetricians and Gynecologists, the California
7 Pharmacists Association, and other health care organizations. The
8 provisions of this section do not preclude the use of existing
9 publications developed by nationally recognized medical
10 organizations.

11 (c) Nothing in this section shall affect the requirements of
12 existing law relating to maintaining the confidentiality of medical
13 records.

14 (d) Nothing in this section shall affect the requirements of
15 existing law relating to the licensing of a health care facility.

16 SEC. 3. No reimbursement is required by this act pursuant to
17 Section 6 of Article XIII B of the California Constitution because
18 the only costs that may be incurred by a local agency or school
19 district will be incurred because this act creates a new crime or
20 infraction, eliminates a crime or infraction, or changes the penalty
21 for a crime or infraction, within the meaning of Section 17556 of
22 the Government Code, or changes the definition of a crime within
23 the meaning of Section 6 of Article XIII B of the California
24 Constitution.

